

REMARKS

The Office Action asserts that the reply filed June 20, 2002, is not fully responsive because “the species of solid support is set forth in generic terms (Applicant[s] elected ‘polymer solid support’).” Office Action, p. 3. The Office Action further requires the election of one species. *Id.*

Applicants respectfully submit that the species in the subgroup “solid support” are not fully identified in the Office Action. Applicants note that a species election requirement must be accompanied by a clear identification of each of the disclosed species. *See* M.P.E.P. § 809.02(a)(B), p. 800-49, 8th ed. (Aug. 2001). This identification is not provided in the Office Action, which lists instead three items followed by the term “etc”. Applicants further traverse the species election requirement on this additional ground.

Whereas the species that are clearly identified can be “exemplary” (*see* M.P.E.P. § 809.02(a)(B), p. 800-49, 8th ed. (Aug. 2001)), it does not follow from the identification provided in the Office Action which criterion is adopted therein for the listing of species in the subgroup “solid support”. Furthermore, it does not appear that the number of species in this subgroup constitutes what is characterized in the M.P.E.P. as an “aggravated” case. *See* M.P.E.P., *id.* Applicants further traverse the species election requirement on these additional grounds.

Applicants respectfully submit that even if the three items explicitly listed in the subgroup “solid support” in the Office Action were considered for election purposes, an election would not be possible because such items would contravene at least one of the requirements to be satisfied by claims that are to be restricted to different species. “The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in the first species but not in a second, while a

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second claim recites limitations disclosed only for the second species and not the first.”

M.P.E.P. § 806.04(f), p. 800-41, 8th ed. (Aug. 2001). This general test is not satisfied, for example, by “a detector”, and “a film or tape” as listed in the Office Action. By way of illustration but not as an interpretive limitation, the written description refers to embodiments in which the solid support is a detector and, in some of the same embodiments, the solid detector can be a film. *See, e.g.*, Application, p. 7, *ll.* 24-28. Therefore, a claim reciting a detector — which is the alleged first species listed in the subgroup— could, under the disclosure, contain at least one feature —a film— found in a claim reciting a film, which is part of the alleged second species listed in the subgroup. Applicants further traverse the species election requirement on the additional ground that such requirement does not satisfy the mutual exclusivity test. *See, e.g.*, M.P.E.P. § 806.04(f), p. 800-41, 8th ed. (Aug. 2001).

The Office Action asserts that the species elected by Applicants (“polymer solid support”) is set forth in “generic terms”. Office Action, p. 3. Even if this characterization were correct, the Office action sets forth species in the subgroups listed therein that encompass more than one embodiment of the invention, and thus could be characterized as “generic”. Applicants further traverse the species election requirement on this additional ground.

To expedite examination, and only for the purpose of providing a fully responsive reply, Applicants elect as species of solid support a solid support whose surface is coated. Claims reading on this species include claims 17 and 19-20. The remaining pending claims are generic to this species. However, Applicants request the removal of this election requirement in light of the multiple reasons for its traversal.

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Applicants reassert herein the traverse set forth in the Response mailed June 13, 2002, and respectfully request favorable consideration of this Response.

Respectfully submitted,

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By: _____

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